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#13

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Burbank et al.

Examiner: D. J. McCroskey

For: **BREAST BIOPSY SYSTEM AND
METHODS**

Group Art Unit: 3736

Serial No.: 09/929,371

Filed: August 13, 2001

Atty. Docket No.: R0367-00101

CERTIFICATE OF MAILING PURSUANT TO 37 C.F.R. 1.8

I hereby certify that this paper is being deposited via Facsimile at (703) 305-4257, and addressed to Mail Stop Petition,
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 27, 2004 in San Francisco, CA.By: PETITION TO REVIVE APPLICATION PURSUANT TO 37 C.F.R. §1.137(b)Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition to revive the above-identified application under 37 C.F.R. §1.137(b). Applicants failed to file a timely response to an Office Action mailed February 18, 2004. Applicants' attorney hereby states that the delay in responding was inadvertent and unintentional. The date of abandonment is the day after the expiration date of the period set for reply in the Office Action plus any extensions of time actually obtained which was August 18, 2004.

In a telephonic communication of March 24, 2004 with the Examiner, Applicants indicated that the Office Action failed to consider Applicants' Second Preliminary Amendment filed September 15, 2003. Based on that conversation, it was Applicants' understanding that a supplemental Office Action would be mailed to applicants

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subsequent the Patent Office's receipt and consideration of Applicants' filing of September 15, 2003. At the request of the Examiner in that telephonic conversation, Applicants facsimiled the same day a copy of the Second Preliminary Amendment as filed on September 15, 2003 in its entirety, accompanied by the Change of Correspondence Address. The enclosed copy of the printed Patent Retrieval Informal Retrieval (PAIR) for this application reflects that the Change of Correspondence Address filed March 24, 2004 was entered on July 21, 2004; however, the Second Preliminary Amendment still failed to be entered into this applications transaction file history. Since the telephonic conversation with the Examiner of March 24, 2004, Applicants anticipated issuance of a supplemental Office Action which eventually may have created an unintentional technical abandon status for this application. Applicants' intent is to maintain the application herein in good standing.

For the convenience of the Examiner, Applicants provide again a copy of their Second Preliminary Amendment as filed September 15, 2003 along with the corresponding return receipt postcard acknowledging receipt thereto by the Patent Office.

The Commissioner is authorized to charge Deposit Account No. 04-1679, referencing Atty. Docket No. R0367-00101 the petition fee set forth in 37 C.F.R. §1.17(m) in the amount of \$665.00. The Commissioner is further authorized to charge Deposit Acct. No. 04-1679 for any additional fees required in regard to this patent application. A duplicate copy of this Petition is enclosed for this purpose.

Please note that concurrently filed herewith is the Amendment And Response To Office Action Mailed 02/18/2004.

Applicants respectfully request revival of the above-identified application and favorable consideration of the concurrently filed amendments.

Respectfully submitted,

By: 

Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Burbank et al.

Examiner: Brian Szmal

For: **BREAST BIOPSY SYSTEM AND
METHODS**

Group: 3736

Serial No.: 09/929,371

Filed: august 13, 2001

Atty. Docket No.: R0367-00101

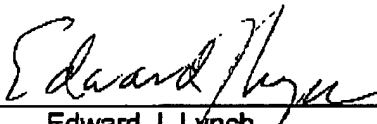
CERTIFICATE OF MAILING PURSUANT TO 37 CFR 1.8I hereby certify that this correspondence is being transmitted by facsimile at (703) 872-9306, Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Attn: Brian Szmal on 12/14/2004 in San Francisco, CA.By: [Signature]REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENTMAILED SEPTEMBER 29, 2004 AND CONSIDERATION OF APPLICANTS'PETITION TO REVIVE FILED ON AUGUST 27, 2004Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request withdrawal of the Notice of Abandonment mailed on September 29, 2004. The Notice indicated that the Notice was given due to "no reply being filed" to the Office Action mailed on February 18, 2004 in the above-referenced application. Prior to Applicants' receipt of the Notice of Abandonment, Applicants filed via facsimile on August 27, 2004 a Petition To Revive Application Pursuant to 37 C.F.R. § 1.137(b) and an Amendment And Response To Office Action Mailed 02/18/2004. A copy of that Petition and the Amendment and Response as filed in their entirety, as well as the confirmation of the facsimile sent, are enclosed herewith. In reviewing this application in PAIR, it is apparent that the August 27, 2004 filing has not yet been filed in this application.

The Petition fee under 37 CFR §1.17(h) is enclosed herewith. The Commissioner is hereby authorized to charge any additional fees due and to credit any overpayment of fees which may be required under 37 CFR §§1.16 and 1.17 to Deposit Account No. 04-1679, referencing Atty. Docket No. R0367-00101.

Respectfully submitted,

By: 
Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

DUANE MORRIS LLP
One Market, Spear Tower, Ste. 2000
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Burbank et al.

) Examiner: D. J. McCroskey

) Group Art Unit: 3736

For: **BREAST BIOPSY SYSTEM AND
METHODS**

Serial No.: 09/929,371

Filed: August 13, 2001

TRANSMITTAL

Atty. Docket No.: R0367-00101

CERTIFICATE OF MAILING PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this correspondence is being transmitted by facsimile to (703) 305-4257 and addressed to Mail Stop Petition,
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 27, 2004, in San Francisco, CA.

By: 

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. Transmitted herewith for filing in the above-identified patent application are the following:

- X Petition To Revive Application Pursuant to 37 C.F.R. §1.137(b); and
X copy of return receipt postcard for filing of September 15, 2003.
X copy of Second Preliminary Amendment filed September 15, 2003.
X print copy of PAIR.
X Amendment and Response To Office Action Mailed 02/18/2004.

2. Claim Fee Calculation

- No additional claim fee is required.
X Amendment increases number of claims or multiple dependencies.

Additional Claim Fee Calculation

Description	Fee Code	Claims	Extra	Rate	Fee
Independent Claims	2201	15 - 5 =	10 x	\$43=	\$ 430.
Total Claims	2202	34 - 26 =	8 x	\$9=	\$ 72.

Total Claim Fees Due

\$ -502-

3. Other Fees Due

X Petition fee set forth in 37 CFR §1.17(m), \$665.

Total Fees Due.....\$1167.

4. Payment of Fees

X The Commissioner is authorized to charge any fees and to credit any overpayment of fees which may be required under 37 C.F.R. §1.16 or §1.17, to Deposit Account No 04-1679, referencing Atty. Docket No. R0367-00101. A duplicate copy of this transmittal is enclosed.

Respectfully submitted,

By: 

Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

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FACSIMILE TRANSMITTAL SHEET

TO: MAIL STOP PETITION / EXAMINER BRIAN SZMAL

FIRM/COMPANY: Commissioner for Trademarks, USPTO

FACSIMILE NUMBER: 703.872 9306

**CONFIRMATION
TELEPHONE:**

FROM: Ruth Der, Paralegal

DIRECT DIAL: 415.371.2231

DATE: December 14, 2004

FILE NUMBER: Atty. Docket No. R0367-00101, Serial No. 09/929,371

TOTAL # OF PAGES: 46
(INCLUDING COVERSHEET)

MESSAGE: Attached is *Request For Withdrawal Of Notice Of Abandonment Mailed September 29, 2004 And Consideration Of Applicants' Petition To Revive Filed On August 27, 2004.*

Please confirm receipt of this facsimile

NOTE: Original will not follow

CONFIDENTIALITY NOTICE

THIS FACSIMILE TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE REVIEW OF THE PARTY TO WHOM IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY TELEPHONE THE SENDER ABOVE TO ARRANGE FOR ITS RETURN, AND IT SHALL NOT CONSTITUTE WAIVER OF THE ATTORNEY-CLIENT PRIVILEGE.

If there is a problem with this transmission, please call us as soon as possible at 415.371.2200.